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THE LABOR LAWS OF MEXICO.

AFTER the conquest of Mexico by the Spanish, the Indian, (the indigenous inhabitant) was placed under a bondage that could not be compared in its harshness with even the most tyrannical feudal system ever in force in Europe. The poor Indian was abused, starved and completely left in ignorance of any right that might be his by reason of the fact that he was human.

This condition continued uninterruptedly for centuries. All of the original "*conquistadores*" and it was no uncommon thing for one family or "*paterfamilias*" to own or control many millions of acres of land on which were located mines, banks and even large cities, all belonging to this one individual or group. The Government was, in actual fact, a "timocracy" and no middle class had an opportunity to thrive. It was all extreme wealth or comparative poverty and therefore there has never been an opportunity in Mexico for real stability because there has been no middle class. The revolutions have all been carried on by the lower classes who have had nothing to lose and everything to gain. The wealthy class of Mexico has not always remained to benefit Mexico by its experience and education, but at the first sound of revolution has realized on its belongings and fled to safer climes. This situation has created many difficulties because the people of Mexico, of all places, need wealth in order to obtain an education. The few wealthy have become well educated; the poor are still ignorant and therefore easily led. It has been said that there is no patriotism in any country, except among the middle classes—that capitalists are selfish and the ignorant do not know the meaning of true patriotism, although ready enough to fight an invading enemy, not because the enemy invades his "*patria*" but because the enemy may invade his *home*.

Mexico, therefore, has vascillated between capitalistic control and bolshevism. Ten years ago, a strike was laughed at, and labor unions were almost unknown. For the welfare of Mexico, capital in education, lands and money was concentrated in

too few hands. The pendulum has swung the other way and now vested rights are not always respected, and educated people are not so numerous. The ignorant people in Mexico are nearly always lacking in energy, and are therefore, unproductive. The question remains for solution, How long will the pendulum swing toward bolshevism?

Perhaps two incidents may best illustrate the psychology of the Mexican mind and the cycle through which the peon has passed. In 1910 before the first revolution had begun, I saw a man strike a peon "*cargador*" on the head with his walking stick because the poor fellow had not taken his hat off to him when talking. Nothing was done, and the peon kept his hat off. In contrast to this case, last year in Tampico, two Americans in a Ford car attempted to drive through a cross street. The other exits were blocked for repairs and about 200 stevedores were lined across the street, which was the only open road, instead of on the curbing or on the sidewalk. They refused to let the car pass, but told the two young fellows that they would have to wait or go around. Of course, the Americans backed off and came forward at about 40 miles an hour. Aside from a few knife thrusts at the tires, the crowd scattered and nothing more happened. From degraded humility, a great part of the lower class has become viciously aggressive. The idea has been to allow no person any more rights than is inevitable.

It was Carranza who put in writing what others before him and after Porfirio Diaz had put in practice. Carranza's slogan "*Constitucion y Reformas*" meant a new constitution and it meant reforms which swung the pendulum from capitalism to a false and extremely radical form of socialism. Carranza abrogated a Constitution which had been tried and proven for over fifty years and adopted what was, perhaps, desired by the great majority of Mexicans, but what was certainly not good for them, because it only increased in them the natural greed of humanity for something it can get for nothing.

The Mexican Constitution of 1917, which was conceived, planned and executed by Carranza, is of extreme interest from the point of view of capital and labor. Article 123 in its preamble says:—

"The National Congress and the state Legislatures shall en-

act labor laws based on the needs of each region, without violating the following provisions, which shall control the work of laborers, workmen, employees, servants and artisans, and genera'ly all labor contracts."

Fortunately, from the viewpoint of capital, it has been impossible to get a national labor bill through Congress. Some of the Legislatures of the states, notably Vera Cruz, have enacted labor laws in compliance with the preamble of article 123 quoted above, an example of which is treated in the last part of this article. It is interesting to note the provisions in the subsections of Article 123 which must not be violated, either by the states or by the Mexican National Congress. Some of the provisions are very wise and greatly needed, but a great many are unnatural and will never be complied with. The conglomeration of healthy and unhealthy provisions is somewhat confusing. To begin with,

Article 1 says that a day's work shall be considered 8 hours, and Article 2 says that a night's work shall be considered 7 hours, and provides against unhealthy or dangerous work for women, generally, and boys under 16, and at the last, forbids working after 10 p.m. on the part of women, or boys under 16.

Article 3 provides that children over 12 and under 16 shall have a working day of six hours and that children under 12 cannot be made object of contract.

So far, the articles quoted are, for the most part, reasonable. Article 2 is objectionable, however, in so far as, for instance, no busy man can use his secretary after 10 p. m. without violating the Mexican Constitution, because the prohibition on women's work after 10 p.m. is absolute. Reasonable clauses, however, are not uncommon, thus, one day out of seven shall be a day of rest for the workmen; but perhaps the clause that has caused much discussion in industrial and family circles is clause 5, of which a full translation would be interesting.

"Women during the three months before delivery shall do no physical work which requires any considerable exertion. During the month following the delivery, they shall (*forzosamente*) rest, receiving their complete salary and retaining their employment and rights which they obtained by virtue of their contracts. During the nursing period,

they shall have two extra rests each day of a half hour each to feed their young."

It is hardly necessary to point out the utter folly of a law like this one. A great percent of the lower classes of Mexicans do not marry, are utterly promiscuous and some average a child every two years, and oftener. One very common case may illustrate the possibility of injustice to the hirer or principal in Mexico. It is never easy to get good servants, and when once employed, may be discovered to be pregnant a week after being hired. According to this clause five, it would be necessary to continue the girl in her position at full pay for four months, three before delivery and one after delivery and to allow her two extra rests a day during the whole period of nursing, which would of course necessitate the presence of the child.

Out of one hundred women in a factory, suppose twenty-five or only twenty became pregnant every year, which is perhaps a very fair average. The operating force of the factory would be reduced by one-fifth for four months, besides the nursing periods. It would hardly be worth while to employ women, therefore, under the very small margin of profit in most industrials in Mexico. If the demand were to become great enough to permit the employment of women, the average woman factory worker would endeavor to be perpetually pregnant in order to obtain the four months full pay without work, and the already very great proportion of illegitimacy would be considerably increased at the expense of capital.

The scope of this article will not permit a detailed analysis of each clause of this famous article 123 of the Mexican Constitution. A great many of the clauses are very reasonable and extremely helpful to the workers and not greatly injurious to capital, but since the purpose of this article is a friendly criticism, the worthy clauses need not be dwelt upon because they need no change. But some of the other clauses abrogate the law of supply and demand, upset world old doctrines of capital and labor and generally create business chaos.

Clause nine, for instance, establishes a legal-economic precept that is utterly impossible of enforcement. After stating

that double time shall be paid for over time, this worthy legislative effort continues:—

“In *no case* can extra work exceed three hours a day nor three times in succession. Men under sixteen and women of any age shall not be admitted in this class of work.”

Every day of the month and every month of the year the oil barges plying from Tampico to the oil fields south of Tampico employ a great many scores of Mexicans. Many of these barges require from twelve to twenty-four hours, more or less, to make a journey to remote parts of the oil fields. Clause 1 of article 123 establishes the maximum work day as eight hours. Clause 9 forbids over three hours over time. Suppose it takes twelve hours to make a trip say from Tampico to Tuxpam. In order to literally comply with the Mexican Constitution, the barge crew would be compelled to stop work sharply on the eleventh hour and rest, even on a stormy lake, until the next work day began. Or suppose that during certain crucial periods it should be necessary to send a launch or barge on a nine hour run, up one day and back the next, then up again the succeeding day. When the launch or barge had made eight hours on its return trip the second time, would the crew be compelled to cease working because of the fact that this second return trip would be the fourth consecutive overtime day, and clause nine asserts that extra work cannot be done on more than three days in succession? Common sense says that, of course, it would be foolish to stop when so close to port, but the Constitution says the crew must stop work, *ergo* the Constitution will not be enforced.

In industrial centers, saloons and gambling houses, according to clause 13, are forbidden, and yet, in Tampico, and other very well known industrial centers, two of the Government's greatest sources of revenue are gambling houses and saloons, and in Tampico, particularly, a very large gambling house is flourishing on one of the main streets and is paying a huge tax to the local government. Many more laborers than capitalists frequent this particular house.

After recognizing labor unions and other associations of like nature, in clauses 16 and 17, clause 18 states that “Strikes shall

be considered illegal only when the majority of the strikers commit violent acts against persons or property". This seems strange. It is hardly probable that out of 5000 strikers there could be found 2501 who are lawless and violent. In Mexico City, on the 12th of December 1921, a protest strike was organized and carried out by the street car employees. During the day, a number of stones were thrown at the passengers on "Scab" cars and other indignities, some violent, some merely humiliating, were carried out by the strikers, *as such*. Yet the strike was not illegal, because the majority of the strikers were not violent, although the object of the strike was confessedly to punish the employers and violence was sanctioned as one of the main objects of the strike.

After giving the workman numerous illogical and inexpedient grounds for conflict with the employer—grounds that would at least seem to violate every basic economic law, clause 20 provides that all conflicts between capital and labor shall be subject to the decision of a committee on conciliation and arbitration composed of an equal number of representatives from the laborers and their employers, with one more member who must be a Government official. This Government official must therefore cast the deciding vote, and the Government that appoints him makes the laws. If the employer is not willing to arbitrate as provided or is not satisfied with the decision of the Committee, the contract of labor shall be terminated and three months extra salary given the workman, and besides the employer shall be responsible under the decision rendered. If the workmen are not satisfied with the decision of the Committee, the labor contract shall be terminated.

If an employer discharges a workman without justifiable cause or for having joined an association or syndicate, or for having taken part in a lawful strike, the employer shall be obligated, at the option of the workman, to complete the contract or to pay three months' salary as indemnity to the discharged workman. And the employer is likewise liable if the workman quits work on account of the lack of probity on the part of the employer or because either the workman, his consort, parents, children or brothers receive bad treatment from the employer, nor can the employer avoid such liability when the liability

is caused by employees or members of his family who act either with the consent or tolerance of the employer.

A contract which fixes a salary that is not compensatory in the opinion of the Board of Conciliation and arbitration, is null and void and so is one that establishes pay day periods over a week apart. Likewise any contract is void that contains a waiver of any right given workmen by any law that helps or protects the laborer.

The Chamber of Deputies has been too busy with pensions and foolish arguments to consider passing a national labor law. The attention of the Deputies has been much drawn away from National subjects because of the embezzlement of their salaries by the treasurer and because of their necessity, at times, to dodge tomatoes, oranges and stones thrown at each other by the members, who for some reason difficult to explain have felt themselves aggrieved. Lately, some have been killed in gun fights in and about the Chamber of Deputies because of an alleged attempt at intimidation on the part of the Obregón Government.

But the State Legislatures have not been so unattentive, particularly in Vera Cruz and Puebla, where there are great numbers of foreign companies operating in oil and industrials, and where most capital that is Mexican is invested in land. Vera Cruz in particular has passed a labor law that is unique. This law is called in newspaper talk the "Hunger Law" and practically the same law in Puebla is called the "Strangle Law". Officially, the Vera Cruz law is known as "The law on division of profits regulating fractions 6 and 9 of articles 123 of the General Constitution (Federal) and 128 of the State Constitution".

Article one provides that the share in profits of business carried on in a given municipality (approximating a county) shall be decided yearly by a special commission formed in each municipality when ordered by the board of conciliation and arbitration, which is subordinated to the provisions of this law.

Article two provides that these special commissions spoken of above shall be formed by three employers, three workmen and a seventh who acts as president and who is elected by mutual agreement of the other representatives. If this President

is not named in three days, the Municipal Council shall be notified and it shall appoint the President of the board. If the laborers do not want to agree on a President with the employers, all they need to do is delay three days and have the Municipal Council appoint one of their own men, because in an issue between a foreign corporation and life-long friends of the Municipal Council, it is obvious that it is impossible to select an impartial judge who will act as President of the special commission. This provision gives at once a majority of 4 to 3 against capital.

Another point of interest in the Vera Cruz law is the fact that an accountant is supposed to be named by each party, but if the employers refuse to name one to calculate the profits, then the accountant for the labor representatives serves for both parties, but if the laborers fail to name their accountant, the Governor of the State names a substitute.

In case any employer is notified that there is to be a meeting of laborers or the special commission, and the employer fails to appear, then the employer can be fined one hundred pesos by the Municipal President for disobedience. Neither the special commission nor the central board are courts nor are they formal members of the legislative bodies. It is true in Mexico that the legislative branch of the Government is the only one normally empowered to pass laws and that the judicial branch of the Government interprets these laws. Hence, the special commission or the central board being neither legislative nor judicial bodies, can neither pass nor interpret laws. When, for instance, a Transcontinental representative in Vera Cruz was summoned to appear at one of these meetings, and failed to do so, he was thrown into jail and kept there for some time. The board apparently enacted that failure to appear was a criminal offense. The fine of one hundred pesos perhaps is more in the nature of punishment for contempt, a purely judicial function. The special commission has no power of a nature either magisterial or ministerial. This commission does not begin to exist until the capitalistic side is present. Who can levy this fine? Not the special commission, surely, nor legally the Municipal President, because he is not a party nor a judicial officer. If because of the three days' delay in the appointment of a seventh

member of this special commission the Municipal Council appoints the Municipal President as representative, the Municipal President becomes an "impartial" arbitrator and therefore loses his character as Municipal President, and cannot levy the fine by the very terms of the creative law.

Whenever either employers or workmen do not name their representative in compliance with this law, the central labor board (board of conciliation and arbitration) names both the representatives for capital and for labor. It is obvious that the labor group is not going to fail to name its representatives, and since the only group that has anything to lose, that is, the employer group, possibly may not name their representative, the central board may proceed to name any persons as substitutes that it may desire, which undoubtedly would put seven labor votes on the special commission. If it is deemed by the labor representatives that the representatives of the employers are not working fast enough, the central board has the right to displace them arbitrarily and substitute any other representatives in their places.

As soon as the special commission has been formed, the said commission is supposed to proceed to agree upon the division of profits. If the Company's balance sheet and accounts of profits do not satisfy the special commission or the Central Board, then either one of these two parties may make special investigations and on finding any concealment of funds or profits, may take these funds or profits and apply them to the exclusive benefit of the laborers, and those responsible for the concealment are liable for an amount equal to the amount concealed, as a fine.

In the State of Vera Cruz, which has always been the most radical state in which much foreign capital has been invested, this labor law only allows 6% annually for interest on capital, and a sinking fund of no more than 10% yearly of the real value. In sections in the Western part of the United States, municipal bonds pay as high as seven per cent and money lends at 8%. In Mexico City, at times, it is extremely easy to get 24% yearly interest on capital. Yet Vera Cruz allows only 6% interest when private lands are being confiscated, taxes are so

burdensome that there is scarcely a margin of profit left, and it is difficult for capital to exist in any form.

The salaries paid to the Board of Directors are not recognized as legitimate expenses of a Company, unless laborers form an integral portion of such board and are paid the same salaries as the rest. In each case, the amount of profits that come to the laborers as their share of the division cannot be less than 10% of the net profits, but *may amount to the entire profit*. It must be noted that salaries are paid not in accordance with an expectation of making a division of profits (and that they are therefore greater), but in accordance with the flat market price of labor. It is also to be remembered that the largest collections of laborers are in unions and that some of these unions have placed their minimum salaries at 3 pesos a day—not depending on efficiency, not depending on age, but merely *membership*. It is to be feared that since the profits are divided notwithstanding labor done, the workmen are not encouraged by this law to work more earnestly or more conscientiously. If the profits are somewhat large, and the special commission demands say 50%, this quantity must be paid within ten days without fail, after demand is made. It is obvious that it would be almost impossible to obtain gold or money of any kind in such large amounts on such short notice, specially when hold-ups and robberies are of such frequent occurrence.

Any expenses such as counsel fees, court expenses, levy and sale of property, etc., expended by the laborers must be reimbursed to them by the employers. If all amounts decided by the special commission to be owed the workmen are not paid by the eleventh day after notice to the employers, there shall follow a levy and execution and sale of enough property to satisfy the supposed debt and costs. Notice of this levy shall be given to any neighbor if the employer is absent, and nobody of the employer's household is home.

A representative on whom notice can be served need only be a person in charge of a part of the Company's business in any given municipality. Suppose that in X Municipality a Company keeps some mules on pasture with an ignorant Indian in charge. If he is the highest employee of the Company in that municipal-

ity, notice can be served on him and the Company held obligated to pay the fines caused by his failure to either comprehend or carry any notice to his superiors, and in case any notice is not passed on by the Indian, the Central Board may appoint substitutes for the employer's representatives because the Companies have not appointed their own, due to the lack of notice, and render their decision without any notice whatsoever having reached the employer.

In the transitory provisions of this law, the legislature *holds the labor law of Jan 14th, 1918* to be unconstitutional, and therefore void from its inception. If the present legislature can declare a law passed by a previous legislature unconstitutional and void, without consulting the judicial authorities, then what standing in the next legislature will a law have that is passed by the present one? The situation in a nut-shell is that law is more or less made light of by men who should realize the serious necessity of justice if stable business is to be established.

This law was enacted on July 6, 1921 and all profits from Feb. 5, 1917 to Dec. 31, 1920 made by any Company or employer must be accounted for and divided among the workmen, apparently whether any of them were working for the Company before 1920 or not.

This is a brief outline of the salient points in Mexican labor laws. The statements are made carefully and without rancor or hostility to the Mexican people. The object of this article is to convince the serious minded American public that there are Americans in Mexico who are working with the most patriotic motives to increase American Commerce, while certain oil interests are fighting in the Congress of the United States to put such a burdensome import tariff on oil that Mexican oil cannot enter American ports, and for the avowed purpose of killing American oil industry in the entire world, outside of the United States.

American business men in Mexico are having to fight burdensome taxes and foreign laws hard enough without fighting Americans who are not patriotic enough to look to the future of our nation, and it may be observed that these labor laws do not affect the oil industry alone, but they affect all industries in

Mexico, domestic and foreign alike, and therefore, Americans in the United States who hinder and obstruct American business in Mexico, encourage poor laws in Mexico, which in turn react harmfully upon business in the United States.

Because some of their laws are criticized and some of their procedures commented upon unfavorably, yet nevertheless, it is believed that fair minded Mexicans will realize that is is only by criticism that a law is improved upon, and through which the viewpoint of another is expressed.

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